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EXAMINER

SPOONER, LAMONT M

ART UNIT PAPER NUMBER

2654

DATE MAILED: 12/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/876,649

Applicant(s)

FILTEAU ET AL

Examiner

Lamont M. Spooner

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 9/16/05 have been fully considered but they are not persuasive.

In response to applicant's arguments regarding claim 2, "...wherein said identifying comprises analyzing a plurality of reports generated at a particular site.", "WFU does not seem to disclose this feature." The Examiner cannot concur. WFU teaches p.4.lines 19-21-WFU explains "The reporting system ... applicable to several ...fields, including pathology, cardiology..." the identifying as previously cited, p.3.lines 20, 21 applies to the reporting system, which inherently applies to each of the reports applicable to the "other image-based fields."

In response to applicant's arguments regarding claim 11 (and claim 5 which contains the underlined argued portion of claim 11, as seen below), "means for selectively applying the plurality of diagnostic findings to generate the diagnostic report, subject to verifying that a candidate finding of the plural findings to be applied is encoded with a language identifier indicative of a match with an operator desired reporting language."

This feature is inherent to WFU p.30.lines 1-4 "Additionally, the reporting system can automatically translate the radiologist's report into a different language for the end-user. The standardized lexicon of diagnostic findings supports rapid translation of reports to foreign languages by employing translation look-up tables." The diagnostic findings explained above are inherently candidate findings, these findings inherently require a

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verification process in order to be translated into a different language, wherein at the least, the candidate findings are encoded in a translation look-up table, and in order to perform the translation a check must be performed for the language identifier match with the "different language" that is inherently indicated for the end-user, the Examiner cannot determine how WFU can translate diagnostic findings into a specific language for an end-user using a look-up table without the reporting system being subject to verifying that a candidate finding is encoded with a language identifier indicative of a match with an operator desired reporting language, thereby defining the inherency. However, as cited in the previous action, Goltra teaches, C.5.line 55-C.6.line 2, producing a technical or non-technical format in a variety of different languages, wherein the medical findings are stored with a code identifying the language, and also, having the codes indicate the selection of the Spanish language. The Examiner once again realizes the inherency of verifying (whereby definition as the database is searched for the code which indicates the selected language the comparison and accuracy is acknowledged by investigation of the stored codes for the specific language-verification) that the candidate finding is encoded with a language identifier indicative of a match with an operator desired reporting language, inherent and necessary to selecting of the Spanish language amongst a plurality of different languages.

In response to applicant's arguments regarding claim 7, "WFU fails to disclose that a "physician generates, in a desired reporting language...that are subsequently subject to said process to identify." The Examiner cannot concur. WFU teaches,

p.4.lines 7-18, continuous identification of diagnostic findings, expert editing, and customizing the report-which contains the diagnostic findings and customized diagnostic findings, thus comprehensively including customized diagnostic findings that are subsequently subject to said process to identify.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 recites the limitation "said process" in claim 7, line 11. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claim 2 is rejected under 35 U.S.C. 102(a) as being anticipated by Wake Forest University (hereinafter referred to as WFU, WO 01/11548).

As per **claim 2**, WFU discloses a method for providing an automated report in a computer based system, comprising:

identifying diagnostic findings (p.3.lines 21, 22) commonly repeated (p.20.lines 6, -12-repetitive) in reports of a specific type (p. 3 lines 21-p.4.line 11, -radiology-is interpreted as the specific type);

translating the identified findings into a reporting language (p. 30 lines 1, 2);

inserting the translated findings into a language encoded database (p.30 lines 1-4-translation look-up table-the translated findings must necessarily be inserted into the translation look-up table, before the reporting system can automatically translate the radiologist's report); and

using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images (p.24.line- p.25.line 6-"as each diagnostic finding is created" is interpreted as the physician-directed iterative process, p.24.lines 17, 18-located diagnostically significant feature from the image, "the thumbnail images later may be incorporated to the final report..."- Interpreted as the diagnostic findings responsive to a plurality, p.30.lines 1-4, the Examiner Interprets the final report to be utilized as discussed), wherein said identifying comprises analyzing a plurality of reports generated at a particular site (p.4.lines 19-21-WFU explains "The reporting system ... applicable to several ...fields, including pathology, cardiology..." the identifying as previously cited, p.3.lines 20, 21 applies to the reporting system, which inherently applies to each of the reports applicable to the "other image-based fields." as it relates to the iterations in report generating).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wake Forest.

As per **claim 7**, WFU discloses a method for providing an automated report in a computer based system, comprising:

identifying diagnostic findings (p.3.lines 21, 22) commonly repeated (p.20.lines 6, -12-repetitive) in reports of a specific type (p. 3 lines 21-p.4.line 11, -radiology-is interpreted as the specific type);

translating the identified findings into a reporting language (p. 30 lines 1, 2);

inserting the translated findings into a language encoded database (p.30 lines 1-4-translation look-up table-the translated findings must necessarily be inserted into the translation look-up table, before the reporting system can automatically translate the radiologist's report); and

using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images (p.24.line-p.25.line 6-"as each diagnostic finding is created" is interpreted as the physician-directed iterative process, p.24.lines 17, 18-located diagnostically significant feature from the image, "the thumbnail images later may be incorporated to the final report..."-Interpreted as the diagnostic findings responsive to a plurality, p.30.lines 1-4, the Examiner interprets the final report to be utilized as discussed); and

providing access to a physician to an editor, wherein the physician generates in a desired language customized diagnostic findings that are subsequently subject to said process to identify (p.4.lines 7-18, continuous identification of diagnostic findings, expert

editing, and customizing the report-which contains the diagnostic findings and customized diagnostic findings, thus comprehensively including customized diagnostic findings that are subsequently subject to said process to identify, p.28.lines 12, 13-the desired language being the language the radiologist uses) but lacks having the physician as a multi-lingual reporting physician. However, the Examiner takes Official Notice that multi-lingual reporting physicians are common. The motivation for doing so would have been to allow a physician to edit a report.

As per **claim 9**, WFU makes obvious dependent claim 7, and further teaches the customized diagnostic findings derive from a previously approved set of diagnostic findings in the reporting physician's desired reporting language (p.28.lines 12, 13- "redundant finding..."-are interpreted as the previously approved set of diagnostic findings).

8. Claims 3-6, 8, 10-16, and 18- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wake Forest University (hereinafter referred to as WFU, WO 01/11548) in view of Goltra (5,802,495).

WFO and Goltra are analogous art in that they involve reporting in multiple languages.

As per **claims 5 and 6**, WFU discloses a method for providing an automated report in a computer based system, comprising:

identifying diagnostic findings (p.3.lines 21, 22) commonly repeated (p.20.lines 6, -12-repetitive) in reports of a specific type (p. 3 lines 21-p.4.line 11, -radiology-is interpreted as the specific type);



translating the identified findings into a reporting language (p. 30 lines 1, 2);

inserting the translated findings into a language encoded database (p.30 lines 1-4-translation look-up table-the translated findings must necessarily be inserted into the translation look-up table, before the reporting system can automatically translate the radiologist's report); and

using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images (p.24.line- p.25.line 6-"as each diagnostic finding is created" is interpreted as the physician-directed iterative process, p.24.lines 17, 18-located diagnostically significant feature from the image, "the thumbnail images later may be incorporated to the final report..."- Interpreted as the diagnostic findings responsive to a plurality , p.30.lines 1-4, the Examiner Interprets the final report to be utilized as discussed)

but lacks explicitly teaching using comprises verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report and finding set.

However, Goltra teaches verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before adding the diagnostic finding to a report and finding set (C.5.line 55-C.6.line 2-"tells the system..."-is interpreted as the verification, C.5.lines 37-45-"code" is added before patient chart, wherein the patient chart is interpreted as the finding set with medical findings, C.5.lines 51-54, more specifically, C.5.line 55-C.6.line 2, producing a technical or non-technical format in a variety of different languages, wherein the medical

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findings are stored with a code identifying the language, and also, having the codes indicate the selection of the Spanish language. The Examiner realizes the inherency of verifying (whereby definition as the database is searched for the code which indicates the selected language the comparison and accuracy is acknowledged by investigation of the stored codes for the specific language-verification) that the candidate finding is encoded with a language identifier indicative of a match with an operator desired reporting language, inherent and necessary to selecting of the Spanish language amongst a plurality of different languages.). Therefore, it would have been obvious to modify WFU with Goltra by encoding the diagnostic finding of WFU, with a language identifier. The motivation for doing so would have been to translate to specified languages (C.6.line 2) by having ready the intended codes for modification (C.6.lines 43-45).

As per **claim 3**, WFU discloses dependent claim 5, and further discloses:

wherein said identifying comprises analyzing a plurality of reports generated in response to a particular study (p.20.lines 6-12- "previous reports", "index lymph node"-study, "trackable" through reports, inherently including analyzing the report).

As per **claim 4**, WFU discloses dependent claim 5, and further discloses:

wherein said translating occurs on a computer-based user interface (p.8.lines 18-21, Fig. 6a- his user interface , p.30.lines 1, 2-translation, and p.5 line 13-his "selected report"-interpreted as his "automatically translated report of a different language"...for example Fig. 7c being the selected report of a different language) and comprises modifying, into a different reporting language (ibid) text of a diagnostic finding used to

generate a report product wherein the report product (p.30.lines 1-4-"translate ..report"-the text is modified from one language to another, Fig. 7c-the computer based interface is in English,-the translation of languages thereof inherently requires the report to be in a different language, p.6.lines 9-21-"computerized...interface", "display").

As per **claim 8**, WFU and Goltra disclose dependent claim 6, Goltra also teaches associating said finding set with a desired reporting language (C.5.lines 37-45-"patient chart"-medical finding set, C.55.line 55-C.6.line 2-"code...language" "narrative"-report in desired language).

As per **claim 10**, WFU and Goltra disclose dependent claim 8, WFU further teaches using comprises associating the diagnostic finding set with a desired study (p.30.lines 1-4-"radiologist's report", p.18.lines 1-17-examples of studies associated with diagnostic findings).

As per **claim 11**, WFU discloses a computer based diagnostic reporting system, comprising:

means for providing a plurality of diagnostic findings (p.3.lines 21, 22) in a text form conducive for use in a diagnostic report (Fig 6a, 6b, Fig. 7a);

means for translating the plurality of diagnostic findings in a reporting language (p.30.lines 1, 2);

means for supplying the plurality of diagnostic findings in the reporting language (Fig 7c); and

means for selectively applying the plurality of diagnostic findings to generate the diagnostic report (p.24.line 17-p.25.line 6, Fig. 7c), but lacks explicitly teaching means

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for supplying the plurality of diagnostic findings to generate the diagnostic report, subject to verifying that a candidate finding of the plural findings to be applied is encoded with a language identifier indicative of a match with an operator desired reporting language (WFU p.30.lines 1-4 "Additionally, the reporting system can automatically translate the radiologist's report into a different language for the end-user. The standardized lexicon of diagnostic findings supports rapid translation of reports to foreign languages by employing translation look-up tables." The diagnostic findings explained above are inherently candidate findings, these findings inherently require a verification process in order to be translated into a different language, wherein at the least, the candidate findings are encoded in a translation look-up table, and in order to perform the translation a check must be performed for the language identifier match with the "different language" that is inherently indicated for the end-user, the Examiner cannot determine how WFU can translate diagnostic findings into a specific language for an end-user using a look-up table without the reporting system being subject to verifying that a candidate finding is encoded with a language identifier indicative of a match with an operator desired reporting language, thereby defining the inherency.

However, Goltra teaches the lacking explicit features, C.5.line 55-C.6.line 2, producing a technical or non-technical format in a variety of different languages, wherein the medical findings are stored with a code identifying the language, and also, having the codes indicate the selection of the Spanish language. The Examiner once again realizes the inherency of verifying (whereby definition as the database is searched for the code which indicates the selected language the comparison and

accuracy is acknowledged by investigation of the stored codes for the specific language-verification) that the candidate finding is encoded with a language identifier indicative of a match with an operator desired reporting language, inherent and necessary to selecting of the Spanish language amongst a plurality of different languages.

As per **claim 12**, WFU and Goltra make obvious dependent claim 11, and further teaches the providing means comprises means for storing (p.29.lines 5-13-inherently stored for tracking) a plurality of diagnostic findings generated by a supervising physician skilled in the analysis of a study (p.30.lines 1-4, 9-19 "attending radiologist..."-supervising physician ... corrections"- "history"-stored diagnostic findings).

As per **claims 13 and 14**, WFU and Goltra make obvious dependent claim 11, and further teaches said translating occurs on a computer-based user interface (p.8.lines 18-21, Fig. 6a- his user interface , p.30.lines 1-4-translation, and p.5 line 13- his "selected report"-interpreted as his "automatically translated report of a different language"...for example Fig. 7c being the selected report of a different language) and the translating means comprises means for modifying into a different reporting language a plurality of diagnostic findings (p.30.lines 1-4-"translate ..report"-the text is modified from one language to another, translation look-up tables require storage, Fig. 7c-the computer based interface is in English,-the translation of languages thereof inherently requires the report to be in a different language, p.6.lines 9-21-computerized-interface", "display"). and means for storing the plural translated findings (p.30.lines 1-4-his table, the stored plurality of diagnostic findings in the reporting language, wherein the

supplying means comprises means for selectively retrieving the stored findings in the reporting language (p.30.lines 1-4-"translation look-up table"-those items to be looked up are selectively retrieved).

As per **claim 15**, WFU and Goltra make obvious dependent claim 11, and further teaches the applying means comprises a medical report generator (p.4.lines 9-"the system") configured to format the plurality of diagnostic findings in a pre-determined report format (p.4.lines 5-13).

**Claim 16** sets forth limitations similar to the rejected claim 7 and thus is also rejected for the same reasons.

As per **claim 19**, WFU discloses a software application driven report generation system (p.21.lines 22, 23), comprising:

a user interface (p.5.lines 11-13) operable to receive a report template (p.7.lines 18-24, Fig. 6a, 6b-"organized images by DICOM (or any additionally subdivisions), at step 304 prior to display..."-the organized data sent to the display is interpreted as a report template which requires the data to be set in an organized form to be sent to the display from the template or organized report information), a plurality of diagnostic findings (Fig. 7c), and inputs from an operator (Fig. 7c), the user interface further programmed to provide an output indicative of a report (Fig. 7c);

a decision logic engine operable (p.8.lines 9-17-"reporting system 10 ...intelligently"-intelligence inherently requires logic for a system to intelligently provide service, ) to receive the output from the user interface, and the plurality of diagnostic findings, and to evaluate the inputs from the operator, wherein the decision logic engine

(Fig 2 item 10-reporting system 10) provides an output indicative of a formatted version of the desired report (p.4.lines 5-13, p.6.line 9-p.10.line 11-formatted signal of the output report, compatible with fax, e-mail, etc., p.30.lines 5, 6).

a renderer configured to receive the output indicative of the formatted version of the desired report and to generate a signal compatible with the report output device (p.6.line 9-p.10.line 11-formatted signal compatible with fax, e-mail, etc., p.30.lines 5, 6), but lacks the software application is configured with logic for verifying that a plurality of diagnostic findings selected for inclusion in a report are reflective of the same reporting language.

However, Goltra teaches verifying that a plurality of diagnostic findings selected for inclusion in a report are reflective of the same reporting language (C.5.line 61-C.6.line 2-"code" inherently identifies/verifies whether the report is in the same language in determination to translate process. Therefore, it would have been obvious to modify WFU with Goltra by having code associated with a particular language. The motivation for doing so would have been to identify what items should be translated to a desired reporting language (C.5.line 60).

As per **claim 18**, WFU and Goltra make obvious dependent claim 19, and further teaches the software application (p.21.lines 22, 23) is programmed to store data associated with a particular report and operative to selectively retrieve and regenerate the stored data (p.6.line 22-p.7.line 11).

As per **claim 20**, WFU and Goltra make obvious dependent claim 19, and claim 20 sets for limitations similar to claim 7, and this is also rejected for the same reasons.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lamont M. Spooner whose telephone number is 571/272-7613. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571/272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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11/28/05

  
RICHEMOND DORVIL  
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